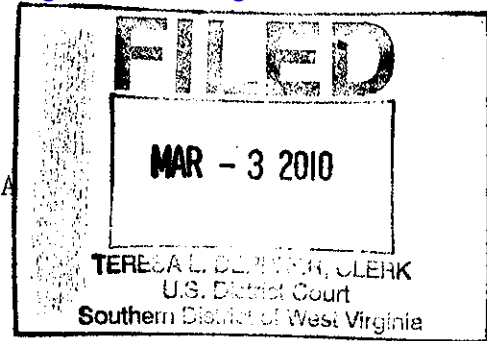


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA



ANTHONY T. HARRELSON #12604-084,

Plaintiff,

CASE No: 5:10 - CV - 0216

COMPLAINT

-against-

JURY TRIAL DEMANDED

KEVEINCANTERBERRY, SCOTTIE ROSE, MIKE CUTWRIGHT,
Dr. EDWARDS, MARTIE OWENS, THOMAS SCARANTINO (Camp
Administrator), DAVID BERKEBILE (Warden), KEVEIN THOMPSON,
sued in their individual and official capacities.

Defendants:

This is a civil rights action taken by Anthony Harrelson, a Federal Prisoner, for damages and injunctive relief under 42 U.S.C § 1983, alleging denial of medical care, improper medical care, inadequate medical care, and conduct of prison officials attendant to the medical care in violation of the Eighth Amendment to the United States Constitution, and a violation of the Due Process Clause of the Fourteenth Amendment to Constitution. The Plaintiff also alleges the torts of deliberate indifference and negligence. The court has jurisdiction over the plaintiffs claims of violation of federal constitutional rights under 42 U.S.C. § 1331(a) and 1343.

The court has supplemental jurisdiction over the plaintiffs state law tort claims under 28 U.S.C § 1367.

1. Non R.D.A.P staff Mrs.B.Fletcher made a adverse administrative descion and denied me access to my prison job in education by firing me because of my partisipation in a R.D.A.P requierd pull up. I partisipated in the pull up on 11-4-2009 and was fiered and reassigned to Food Service on 11-05-2009

2. Mrs. Flecther discriminated against me for my partisipation in the R.D.A.P program. This is against Bureau of Prisons policy 28 CFR §551.90; Exhibit # 14

3. On 11-05-2009 I was placed in food service, upon finding this out via the call out posted in Maple unit, I went and spoke to the counsler assigned to me Mr.K.Canterberry. I told him that the p.m. food service shedule interfeared with my religious meetings, Jehovahs Witness and told Mr.Canterberry the days prison chaplen Mr.Temple has allowed us to meet. The supreme Court has held that reasonable oppertunitites must be afforded to all prisoners to excecise the religious freedom guaranteed by the First and Fourteenth Amendments witout fear of penalty. Cruz v. Beto, 405 U.S. 319, 322 n.2, 92 S.Ct.1079(1972). The R.F.R.A. itself provides for judicial relief; 42 U.S.C.S § 2000bb-1(c), it does not have to be enforced through 42 U.S.C.S 1983. R.F.R.A. provides for appropriate relief against a government. Government is defined as a branch,deparment,agency,instrumentality,anoffical (or other person under color of law) of the United Sates. The R.F.R.A as passed by congress allows me the right to attend Jehovahs Witness services as provided by the Bureau of Prisons Department of Justice, here on B.O.P..

4. While speaking with Mr.Canterberry on 11-5-2009, I reminded him about the two medications that I take at 3:00 p.m. pill line make make extermley groggy and slows my concentration, and that I was in fear for my personal saftey while woorking in foodservice while medicated. I encouraged Mr. Canterbeery to check my medical history and condition as it is listed in my P.S.I.. Counsler Canterbeery told me he did not care and better show up for work even if I had to crawl or he would put me in the SHU until I completed my sentence.

5. The eighth Amendment forbids exposure of prisoners to conditions that pose an unreasonable risk of serious damage to their current or future health. A prisoner may not be required to perform a work assignment inconsistent with there medical condition.

6. I proceeded to go to work in Food Service while very groggy from the two medications that I take. In Food Service there are slick floors and hot surfaces.

7. On 11-9-2009 I gave counsler Canterberry a wriiten BP-S148.055 once more expressing my concern for my saftey while working in Food service after taking my two medications at 3:00p.m. pill call, and how my work 'schedules interfears with the religious services I attend.

See Exhibit # *I*

8. My work schedule as I was told by the inmate supervisor is Monday, Thursday, Friday Saturday and Sunday, from first call at lunch which is for the most part around 10:45 a.m. to 3:30 p.m. - recall I am then called back to work around 4:45 and sometimes held at food service until 9:00 p.m.. It is unconstitutional to give a inmate jobs involving supervisory authority over other inmates. *McDuffie v. Estelle*, 935 F.2d 682, 686 n. 6 (5th Cir 1991) and cases cited.

9. The inmate supervisor in food service that I report to is Tobby Hayes. He has us sign our pay sheets, and does all job assignments and scheduling he is the one we all answer to and are told to go to him unless we are dying.

10. On 11-14-2009 I fell in the Food service dining hall. There was no mop bucket out or wet floor signs to put out. I was groggy from the medication that I take. I fell hard on my right shoulder and injured my back neck and right shoulder. I reported the accident to the inmate supervisor Tobby Hayes. He told me he didn't care how bad I was hurt to go back to work. I then went reported the accident to the officer on duty at that time Ms. Moye. She wanted to get back to work cause she wanted to get home. When I told her I wanted medical attention she responded there is no body on the camp to help you get out there and finish your work or I will make sure you are shipped so far away from your family you won't see them till you get out.

11. I reported the accident to camp medical on 11-15-2009. R.N. Owens did an assessment on me gave Tylenol and medical Idol from 11-15-2009 to 11-22-09. See Exhibit # 7, 8, 2

12. On 11-17-2009 I was called to counselor Canterbury's office and he answered my BP-S148.055 and stated "the meds you are on would not prevent you from working a p.m. shift job". To my knowledge Mr. Canterbury is not part of the Medical staff or that he has the training to make such a decision about the medications that I take, and the affects they have on my body. This action in it's self shows a conscious disregard for the harm that this action alone caused me. This action shows Mr. Canterbury's awareness of and his disregard for the risk he put me at. And the injuries, due to his actions as a B.O.P. officer. Mr. Canterbury is making decisions that he is not trained to make. Exhibit #1

13. Prison accidents violate the constitution if they result from deliberate indifference or callous disregard for safety by or collusion disregard for safety by prison personnel. *Jone v Morris*, 777 F.2d 1277, 1280 (7th Cir 1985). Mr. Canterbury as an officer of the B.O.P a part of the United States has taken such action toward me as an inmate under his care.

14. Prison officials as officers of the United States can be held liable for a fall if they knew of dangerous situations and conditions and acted with deliberate indifference in failure to cure them. Mr. Canterbury failed to use "reasonable care" to avoid foreseeable risk to my self as an inmate under his care; *District of Columbia v. Mitchell* 533 A.2d 629, 639 (DC 1987); *Hill v. Wright County* 400 N.W.2d 744, 747 (Minn. App. 1987).

15. While in Counselor Canterbury's office on 11-17-2009 I informed him that I had fallen and injured myself while working in Food Service due to being groggy from the medications that I take at 3:00 p.m. pill call. Mr. Canterbury became enraged at this, he asked me if I had reported it to staff? I told him that I reported to my inmate supervisor, Officer Moye

in Food Service, and to medical. I told him that R.N. Owens had done an accident assessment and placed on medical hold until 11-22-09. I also informed officer Canterbury that I had been placed on the call out to see the physicians assistant. I once more asked for a job change or even a schedule change. Counselor/Officer/Mr. Canterbury told me he did not care how bad I was hurt or how groggy the meds made me he would not change my job, he didn't care if it killed me. As long as I am at F.C.I. Beckley I would stay in food service.

16. On or about 11-19-2009 I saw P.A. S. Rose in the medical department when P.A. Rose of the Beckley B.O.P. Camp staff saw me, the first words out of P.A. Rose's mouth was... Oh it's you Harrelson, Mr. Canterbury has already told me about you and I'm not going to do anything to help you get out of Food Service and this situation is between you and Mr. Canterbury. I tried to explain to P.A. Rose that I am here for medical help for the pain in my neck, back and shoulder after the fall in food service due to the fact that I was groggy from my medication. P.A. ROSE threatened me in saying I will take you off your medication so you can do what Mr. Canterbury wants you to do how he wants you to do it. I responded that if you take me off my medication that would be considered torture per the U.S.C. code.

17. Mr. S. Rose is a physician's assistant and not a doctor, and has no training to make such a decision or statement to take me off of my medication that is overseen by an outside Doctor. Medical personnel who undertake to treat specialized problems are held to the standard of care applicable to those specialties even if they do not claim specialized expertise; Williams v. United States, 747 F. Supp. 967, 1009 (S.D. N.Y. 1990). This is one example of P.A. Rose's failure to follow statutes limiting their practice may constitute negligence. Countryman v. County of Winnebago, 481 N.E.2d at 1261; Exhibit #10

18. P.A. S. ROSE refused to treat me for the medical conditions that I came to the B.O.P. medical department for on request of Mr. Canterbury; (Gordon v. City of New York, 120 A.D.2d 562, 502 N.Y.S.2d 215, 216 (N.Y. App. Div. 1986)) "P.A. S. Rose as an employee of the B.O.P. medical staff did not show ordinary care..to provide health care of prisoners.

19. Counselor Canterbury interfered with an medical judgment in treatment by P.A. S. Rose by enforcing rules and procedures to cause medical care to be given to myself on non medical grounds. This shows intentional maltreatment and violates the 8th amendment. This also shows P.A. S. Rose has inadequate training to do his job. Further showing deliberate indifference.

20. I told P.A. Rose that I was in pain and wanted help he gave me a form for commissary to buy acetaminophen, and told me to get out of the building or he would call those running the R.D.A.P. program and do everything in his power to make sure I got kicked out of the program and would not get my sentence reduction; Hughes v. Joliet Correctional Center, 913 F.2d 425, 428 (7th Cir. 1991) I was treated not as a patient but as a nuisance and the medical staff at B.O.P. Prison Camp Beckley are insufficiently interested in my health to take even minimal steps to guard against the possibility that my injuries are severe and further show a finding of deliberate indifference toward me; Smith v. Jenkins, 919 F.2d 90, 93 (8th Cir. 1990) P.A. Rose deviated from professional standard.

21. I asked P.A. S. Rose to see a medical doctor. P.A. S. Rose told me I am the only doctor you need, and there is no doctor present on this compound. P.A. S. Rose told me he would make sure I will not see a doctor that he was good enough. P.A. S. Rose of the B.O.P medical staff denied me access to medical personnel qualified to exercise judgement about my medical problem. P.A. S. Rose is not a medical doctor nor is Counsler Canterbury and both lack medical qualifications and or training to access my medical problems; Estelle v. Gambl, 429 U.S. at 104; Robinson v. Moreland, 655 F.2d 887, 889-90 (8th Cir. 1978) These actions of thses B.O.P. officials or staff being employed by the United States violate the Constitution.

22. Counsler Canterbury was making medical judgements and this constitutes deliberate indifference; Casey v. Lewis, 834 Supp. 1477, 1545, (D. Ariz. 1993).

23. I have only been permitted to see lower-level, non-physion personnel; until 12-14-2009 I was then allowed to see doctor Edwards.

24. P.A. Rose did not ask me any questions to get essential facts that are necessary to make a professional judgement. P.A. S. Rose did not take a history nor did R.N. Owens and no tests have been done according to the syptoms I have and the pain I have; Liscio v. Warren, 901 F.2d 274, 276-277 (2d Cir. 1990); Boyce v. Alizaduh, 595 F.2d 948, 952-953 (4th Cir 1979); Milter v. Beorn, 896 F.2d 848, 853 (4th Cir 1990); Medcalf v. State of Kansas, 626 F.Supp 1179, 1183 (D. Kan. 1986); Weaver v. Jarvis 611 F.supp. 40, 44 (N.D. Ga. 1985).

Up to that point in time.

25. Government Medical personeal are are liable for their actions and/or omissions when they amount to deliberate indifference as in this situation. P.A. Rose actions have caused me unnecessary and wanton infliction of pain and this is a breech of my 8th Amendment rights. Prisoners who are denied adquate medical are entitled to file a Federal Tort Claim due to negligence and malpractice of Governmental medical employees and is therefore a representative of the United States and Action against such agent is one against United States for purpose of court jurisdiction; Schroder v. Davis (1929, CA8 Mo) 32 F2d 454.

26. Prisons may use nurses, physicians assistants (P.A.) or medical technical asistants to detrmine priorities in seeing a doctor not wether or not they can see a doctor; Partee v. Lane, 528 F.Supp 1254, 1259-61 (N.D. III. 1981); Burks v. Tesdale, 492 F.Supp. 650, 678-679 (W.D. Mo. 1980). In such a system the person doing the screening must have adequate physician supervision, and prisoners who need a physicans direct attention must recive it. There Is no Medicial doctor on this prison camp. So how is P.A. Rose Proerly Supervised?

27. This negligence and malpratice has taken place while in federal custody and I may bring suit in federal court under the Federal Tort Claims Act and I may join claims under the Federal Tort Claims Act and civil rights claims alleging deliberate indifference in the same action.

28. Groverment medical staff commits malpractice by failing to use the knowledge, skill and care ordinarily possessed by properly trainded members of the medical profession in good standing;

Yosurf v. United States, 642 F. Supp. at 428; W. Page Keeton et al., Prosser and Keeton on the Law of Torts § 32 at 187 (5th ed 1984); Chambers v. Ingram, 858 F.2d 351, 355 (7th cir. 1988) (Illinois law); Hutchinson v. United States, 838 F.2d 390, 392 (9th Cir. 1988) (California law).

29. Prison officials knowledge of deliberate indifference to a prisoners serious medical needs may be established by circumstantial evidence such as I am providing; Boyd v. Knox, 47 F3d 996 (8th cir 1995).

30. Prison officials do not insulate their potential liability under the 8th Amendment for actions reflecting deliberate indifference as actions thus far stated; McElligot v. Foley, 182 F3d 1248 (11th Cir 1999).

31. Prison personnel must respond to the particular claim of deliberate indifference that I am raising. In the event that prison medical staff say that some medical care was provided or that my medical care was adequate; Henderson v. Harris, 672 F. Supp. 1054, 1059 (N.D. Ill 1987).

32. I am in continuous severe pain that affects my sleep, I have pain walking bending lifting and reaching. The deliberate indifference standard does not excuse United States agents and or employees from one episode of gross misconduct merely because the overall pattern of past care reflects general attentiveness. Mr. Canterbury interfered with me getting medical care.

33. The pain caused could have been prevented if Mr. Canterbury had not disregarded that his actions and for the risk and damage and harm to my body by neglecting my medical condition in placing me in Food Service while medicated and groggy; Marsh v. Butler County, Ala., 225 F.3d 1243 (11th Cir 2000). Finding of deliberate indifference by prison officials to serious medical needs of inmate in violation 8th or 14th Amendment necessarily precludes finding of qualified immunity.

34. Counselor Canterbury and P.A. S. Rose whom are both prison personnel may be held liable for their failure to act because they are Agents of the United States for acts of omission are actionable... to the extent as acts of commission. Officials who know or should have reasonably known of injury that could have been prevented if they fail to do anything about the situation judgement was not made by competent or qualified medical personnel; Smith v. Ross, 482 F.2d 33, 36 (6th Cir 1978); Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285 (1976).

35. The duty of the Bureau of Prisons under federal statute is to provide for the safe keeping, care, subsistence and protection of all persons charged with or convicted of offences against the United States. Violations of this duty are actionable under, including medical malpractice, intentional infliction of emotional distress and accidents caused by prison staff negligence. As I have thus far presented to you.

36. Qualified immunity is not applicable in a F.T.C.A. Suite according to most courts; Townsend v. Carmel, 494 F. Supp. 30 36-37 (D.D.C. 1980); Picaric v. Fenton, 491 F. Supp. at 1040-42.

Crain v. Krehbiel, 443 F.Supp.202,216(N.D.Cal.1977).
Castro v. United States, 34 F.3d 106,110-11(2d Cir 1994), One court recently held that no official immunities apply under the F.T.C.A. because the statute says that the government is liable whenever a private person would be liable under state law.

37. on 11-17 -2009 while in Mr.Canterberrys office I asked him for a BP 9,I told him it would be sensitive. Mr.Canterberry told me that if I filed on him he would ship me to Texas and I would and he would make sure that I sat in the SHU for six months before I was shipped.

38.Courts recognize that mental pain can be as bad as real pain or phisical pain and what Mr.Canterberry and P.A. S. Rose Have done to me has caused both to me significant anguish that could have been prevented;Northington v. Jackson,973 F.2d at 1524; Parrish v. Johnson,800 F.2d 600,605(6th Cir.1986);Parker v.Asher 701 F.Supp.192,194(D.Nev.1988).

39.Counsler Canterbury and Mr.Rose acted with malice toward me need not be able to prove directly what was in the officers of the United States mind.The actions of the officers in themselves in light of the circumstances is sufficient to show malice, Thomas v.Statler,20 F.3d 298,302(7th Cir 1994);Hill v. Shelander, 992 F.2d 714,717(7th Cir.1993);Valencia v. Wiggins,981 F.2d at 1446;Millers v.Leathers,913 F.2d 1085,1088(4th Cir.1990). Mr. Canterbury acted maliciously and sadistically and proof of malice is not required in most courts;Lander v.Murray,769 F.2d 195,199n.4(4 th cir 1985).

40. Counsler Canterbury and P.A Rose have acted with callus disregard for my safety and future health and medical needs. Mr.Canterberrys deliberate indifference and calus disregard to my accident while in prison at Federal Prison Camp Beckley W.V..

41.Jones v. Morris,777 F.2d 1277,1280 (7th Cir 1985), prison officials could be held liable for a fall if they knew of dangerous conditions and acted with deliberate indifference in failing to cure them. This whole situation would have been avoided if Counsler Canterbury while acting as a representative or agent of United States had taken in to consideration my medical condition and the medications that I take which make me groggy and lower my consintration, I would not have slipped and fell and suffered injury while in performance of prison task assigned by Counsler Canterbury. I sustained back neck and sholder injury that could have been prevented if Counsler Canterbury had not acted with such negligence while acting within the scope of his office or employment.

42. I was forced to work while injured and being denied medical treatment ,a prison inmate being forced to work while injured may state a claim for cruel and unsal punishment by being forced to work by being forced to work beyond my capacity as I am thus endangering my life;Johnson v.Clinton, 763 F2d.326 (8th cir 1985). This was due to Mr.Caterberry and P.A. S.Rose negligence and malice toward myself. They acted while in thier official capacity.

43. The entire prison camp was denied sick call 11-25-2009 to 11-29-2009. Including myself, I went to the medical department each of those days with a BP-S148.055 and was denied sick call and my requests to staff were not taken.

44. on 11-30-2009 sick call was allowed and I turned in all my BP-S148.055 in to the sick call window. I was called back to the medical Department by R.N. Owens and she gave me my BP-S148-.055 back and told me that she did not time to read a biography. Once more showing the negligence of the B.O.P medical staff as employees of United States. See Exhibit # 314,5

45. On 11-30-2009 I was allowed to get a sick slip at pill call at 3:00 p.m. after being told by R.N. Owens ~~said~~ she did not have time to read my ~~request~~ that morning at approx. 6:45 a.m.. I was able to turn in my a sick call slip after pill call was completed that afternoon. This sick call request went un answered.

46. I put another request for sick call on 12/04/2009. X-rays were done 12-8-2009, 22 days after my injury. This once more shows the negligence of those charged with my care by United States.

47. The denial of medical care by agents of United States caused and continues to cause me serious pain from the top of my neck to the bottom of my feet..The effect of denial of medical by agents of United States and the pain I am suffering very much interferes with my every activities. The pain is getting worse.

48. The injury that happened to me due to the negligence of agents of United States, significantly affects my daily activities. I am in chronic and substantial pain. This was caused by a traumatic injury that could have been prevented by agents/employees of United States. The pain has gotten worse since the injury occurred to my back, neck, and shoulder. I am now having numbness in my feet, numbness and radiating pain in my right arm in to my hand, and pain radiating into my legs from my lower back. I have pain bending, lefting, reaching sitting, standing, and laying down. I can't get comfortable in any one position. This injury is affecting my sleep I am not sleeping well because I can't get comfortable. I have extreme pain that never stops and has worsened.

49. I am asking for a medical expert witness under Rule 706, Fed.R. Ev.

50. The medical staff At B.O.P. Camp Beckley has done nothing to help or prevent any further pain by forcing me to be cleared for food service in a job that forces me to bend reach lift and do repetitive actions that cause serious pain that is even worse than normal. This is one example of how my work is medically inappropriate along with the fact that the medication I take makes me groggy and lowers my concentration. Shows malpractice because they have continued to keep me cleared for food service even after this injury occurred. The medical staff are employees of United States.

51. The B.O.P. Staff at the prison Camp In Beckley did not show reasonable care to avoid foreseeable risk to a prisoner in their care.

43. The entire prison camp was denied sick call 11-25-2009 to 11-29-2009. Including myself, I went to the medical department each of those days with a BP-S148.055 and was denied sick call and my requests to staff were not taken.

44. on 11-30-2009 sick call was allowed and I turned in all my BP-S148.055 in to the sick call window. I was called back to the medical Department by R.N. Owens and she gave me my BP-S148-.055 back and told me that she did not time to read a biography. Once more showing the negligence of the B.O.P medical staff as employees of United States.
See Exhibit # 31415

45. On 11-30-2009 I was allowed to get a sick slip at pill call at 3:00 p.m. after being told by R.N. Owens ~~said she~~ did not have time to read my requests that morning at approx. 6:45 a.m.. I was able to turn in my a sick call slip after pill call was completed that afternoon. This sick call request went un answered.

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48. The injury that happened to me due to the negligence of agents of United States, significantly affects my daily activities. I am in chronic and substantial pain. This was caused by a traumatic injury that could have been prevented by agents/employees of United States. The pain has gotten worse since the injury occurred to my back, neck, and shoulder. I am now having numbness in my feet, numbness and radiating pain in my right arm in to my hand, and pain radiating into my legs from my lower back. I have pain bending, lefting, reaching sitting, standing, and laying down. I can't get comfortable in any one position. This injury is affecting my sleep. I am not sleeping well because I can't get comfortable. I have extreme pain that never stops and has worsened.

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51. The B.O.P. Staff at the prison Camp In Beckley did not show reasonable care to avoid foreseeable risk to a prisoner in their care.

52. I was sent to prison as punishment not to be punished; *Wolfish v. Levi*, 439 F. Supp. 114 (S.D. New York 1977).

53. The medications I take is Lithium and Valproic Acid. I take them every day at 3:00 p.m. pill call. They cause me to be groggy and lessen my concentration.

54. I am injured physically and suffered greatly due to my injury and because of this have also suffered great emotional injuries.

55. I have been threatened ^{by} B.O.P. officer Cutwright that I would be taken to the SHU and that he would call one of his buddies that works in the SHU and that I could expect the worst. I took this to mean physically. Officer Cutwright recently physically assaulted another inmate this caused me great emotional distress in being intimidated by not only Officer Cutwright, but also Counselor Canterbury, and P.A. Rose, all of whom are employees of United States.

56. The emotional distress of the entire situation including the injury and constant pain, and intimidation and threats has caused me loss of sleep, weight loss, and shock.

57. The agents of United States acted in excess of their authority named here in.

58. Black's Law Dic. Defines deliberate indifference as a conscious disregard of the harm that one's actions could do to the interests or rights of another; Awareness of disregard for the risk of harm to another person's life or body. B.O.P. agents here at Prison Camp Beckley clearly demonstrate deliberate indifference toward me as a person under their care. Prison officials failed to prevent harm to me, as agents of United States.

59. These agents of United States were making decisions based on speculation, speculation is no substitute for the facts of the situation.

60. I have exhausted my administrative remedy in this matter. (see all exhibits)

61. Plaintiff sent numerous requests to staff that went unanswered. Plaintiff filled a BP-9 with the B.O.P. regional office which was rejected, Plaintiff forwarded a copy of the BP-9 to Warden David Berkebile and no response was given within the allotted 20 day period, per 28 CFR 542.18. Plaintiff has tried to work this problem out numerous times through the established prison channels and still suffered injury.

62. A federal employee may be required to reimburse federal government for payments of recovery from third parties for personal injury by United States employee obligates employees to reimburse government for all compensation it has paid; *United States v. Hays* (1966, WD Ky) 254 F Supp 849; *Green v. United States Dep't of Labor* (1985 CA8 Minn).

63. Correctional supervisors are deliberately indifferent if they fail to provide adequate or qualified staff and if they fail to remedy unlawful conditions that they know of or should have known about or if they otherwise fail to carry out their responsibilities. Mr. Thomas Scarpino as the camp administrator, and Mr. Thompson Health Services administrator.

Aswegan v. Bruhl, 965 F.2d 676, 677-678 (8th cir. 1992) Hill v. Marshall, 962 F.2d 1209, 1213 (6th Cir 1992); Greason v. Kemp, 891 F.2d 829, 839 (11th Cir 1990); Tomarkin v. Ward, 534 F.Supp. 1224 1232 (S.D.N.Y. 1982).

64. Federal prisoners can not obtain their own medical services the federal statute requires prison authorities to provide them with reasonably adequate medical care of a quality acceptable within prudent professional standards. This has not been provided in this case.

65. I have not been treated for my injury and that pain caused by it due to the negligence of employees of United States.

66. I have requested a M.R.I. of my back, neck and, shoulder directly to the Regional office of the B.O.P. in Annapolis, Md. via sensitive B.P.9.

67. I am forced to wear boots that cause my injury to be further aggravated my injury.

68. Neither my inmate supervisor or the officer in charge would file accident report to the institutional safety manager. I even went back and asked Ms. Moye to file on for me and she refused.

69. Courts have recognized that care can have serious cumulative effect from the repeated denial of care with regard to even to minor needs; Jones v. Evans, 544 F.Supp. 769, 775 n 4 (N.D. Ga. 1982). (see attached exhibits)

70. All agents and employees of United States have taken and filed a Oath of office stating that they would uphold the Conditions of United States.

71. Agents of United States in acts that antagonized the undersigned.
Named Herein.

72. Agents or employees of United States know or knew the limits and restrictions, whether statutorily, or constitutionally pursuant to their 'Oath of Office'.

* 73. Ignorance of the law does not excuse misconduct in anyone, least of all sworn officers of United States.

74. I was placed on call out 12/11/09 after numerous requests and R.N. Owens refused to take my Requests for help in writing. I was once more allowed to see P.A. S. Rose. I once more expressed to P.A. S. Rose that I was having extreme continuous pain in my back neck and shoulder and that my right hand and feet are cold and numb and that pain is radiating from my lower back in to my legs and that it felt like I am dragging my feet and about to fall with each step, and that I had lost strength in my right arm and hand. To this P.A. S. Rose stated "YOU ARE NOT IN PAIN THERE IS NOTHING WRONG WITH YOU, I LOOKED AT YOUR X RAYS YOU HAVE NO BROKEN BONES.... YOU ARE FINE." To my knowledge is not a radiologist. After making this statement P.A. S. Rose took my BLOOD PRESSURE and it was according to P.A. ROSE sky high, my Blood Pressure was so high that P.A. S. Rose placed me on Blood Pressure medication that day. This scared me and I told P.A. S. Rose that I had never had high blood pressure. I asked P.A. S. Rose why my Blood pressure was so high P.A. S. ROSE answered to pain.

75. I was placed on atenolol 50 mg for my high blood pressure I now take this daily for the rest of my life.

76. On 12/14/2009 after numerous requests and cop outs I was finally allowed to see Dr. Edwards. Dr. Edwards was not aware of the injury caused by the fall while working in food service; Dr. Edwards was not aware of the x-rays that had been done on my back neck and shoulder or the fact that I take lithium and valproic acid. To my understanding Dr. Edwards is the doctor responsible for over seeing P.A. S. Rose and the prison camp. Dr. Edwards was not aware of my medical situation until 12/14/2009.

77. Dr. Edwards told me that I should have never been cleared by P.A. S. ROSE, and that I was not cleared in SENTRY for food service. P.A. S. Rose made this choice and Counselor Canterbury enforced it while in their official capacity causing both emotional and bodily injury.

78. Dr. Edwards told me my high blood pressure was due to pain and that I will have to stay on the high blood pressure medication for the rest of my life to keep my blood pressure stabilized.

79. On 12/14/2009 Dr. Edwards placed me on 1000 mg of Naproxen daily. This does not stop the pain it barely touches the pain.

80. According to Dr. Edwards, due to the medications I take, the pain medication I can take are very limited. If the agents and employees of United States had not acted with negligence I would not be suffering now and possibly the rest of my life.

81. I have requested a M.R.I. on numerous occasions. On 12/14/2009 I requested a M.R.I. directly to Dr. Edwards, He responded it has to be approved through Washington, D.C. and I would be home before it gets approved. I have even offered to pay for an M.R.I..

82. On 12-14-09 I forwarded my copouts that I had sent to Dr. Edwards, along with a request for a M.R.I. in writing for a M.R.I. to K. Thompson the Health Service Administrator and received no response. I mailed the request via the United States Postal Service due to the fact that he is located at the FCI and I am at the camp.

83. The term bodily injury means physical pain; impairment of the function of a bodily member, or other injury to the body no matter how temporary. The actions of the defendants stated here in are unconstitutional and show that misapplication of statutes has taken place; 18 UCS 1365 (h) (4).

84. I took my printed medical hold and restrictions to Mr. Canterbury and he refused to enter it into the computer. Mr. Canterbury stated to me that as soon as the hold is over he is placing me back in food service. This statement along with Mr. Canterbury refusing to change the MDS assignment further shows the negligence of Mr. Canterbury. I also addressed this issue to Mr. K. Thompson (H.S.A) and to date received no response.
Exhibit#9

85. Forced to work in food service injured and doing actions that made my pain even worse than it already was. P.A.S. ROSE refused to renew my hold that expired 11-22-09. Dr. Edwards placed me on medical hold 12-14-09. I was forced to work while in extreme pain from 11-22-09 to 12-13-09.

86. On 2-5-10 Plaintiff was placed on call out to see P.A S.Rose for pain from back injury, Plaintiff was ridiculed and belittled by P.A. S.Rose. Defendant S.Rose told Plaintiff to stop playing games and that Plaintiff was going home in six or seven months and that himself and Dr.Edwards were finished treating me.

87. There was no doctor present on the camp during my visit with P.A. Rose on 2-5-10.

87. There is no on-site psychiatrist for an institution this size is unconstitutional.

88. The physicians assistant P.A.Rose failed to review claimants initial medical intake sheet.

89. The failure of FPC Beckley medical personnell to take a full history of Plaintiff's medical background and did not schedule Plaintiff to see Dr.Edwards as soon as possible caused Plaintiff to be placed in a job assignment that caused injury to Plaintiff.

90. FPC Beckley failed to provide Plaintiff with physical exam within two weeks of arrival at Beckley as required by B.O.P. Regulations.

91. Dr.Edwards Failed to provide any further diagnostic testing after learning of Plaintiff's continuing and worsening pain.

92. The failure of FPC Beckley medical staff to accede to Plaintiff's reasonable requests for medical attention.

93. The defendants stated herein failed to follow and allow for the medical and physical limitations of the Plaintiff.

94. Upon request and review of my medical records Plaintiff found radiology report stating that he has calcifications that may represent nephrolithiasis, and the other in the upper pelvis may represent a small appendicolith. This information was not brought to my attention. I put in a Request for an explanation but never received a response.

95. On or about 2-22-10 I was called to the message center where I threatened once more by officer Cutwright, Plaintiff was told to leave Mr.Canterberry alone and that the next time we have this talk I will be removed from the camp and the R.D.A.P.P. program and I would lose my time off. I told him I don't do anything against the rules or have anything wrong in my locker. Cutwright stated keep on and something will show up and you gone. He called me "a thorn in the ass".

Relief Requested.

WHEREFORE, plaintiff requests that the court grant the following relief:

A. Issue an injunction ordering Warden David Berkebille, Thomas Scarantino Camp Administrator or their agents to:

1. Immediately arrange for the Plaintiff's need for a M.R.I. to be done for the Plaintiff.

2. Immediately have Plaintiff evaluated by non Federal Bureau of Prisons Physician with expertise in back, neck, and shoulder injuries after M.R.I. is completed.

3. Carry without delay the treatment directed by such medical practitioner.

4. The relief sought will serve the public interest, plaintiff is confident to prevail at trial.

B. Issue a an injunction ordering defendant Cutwright to;

1. Have a Temporary Restraining Order placed on Defendant Cutwright for the protection of Plaintiff Harrelson, for the reasons stated specifically in this complaint, and Plaintiff requests the court to direct the United States Marshals to serve the order. As the court sees fit.

C. Award compensatory damages in the following amounts:

1. \$ 250,000 jointly and severally against defenants Canterbury, S. Rose, Dr. Edwards, Thomas Scarantino, Berkebile, K. Thompson for physical and emotional injuries, negligence, and deliberate indifference, improper medical care, and conduct of prison officals and those resposiable in management in violation of the Eighth Amendment and in violation of the Due Process Clause of the Fourteenth Amendment that has been violated.

2. \$10,000 jointly and severally against defendant M. Owens for the emotional injury and humiliation in her actions of denial to sick call.

C. Award punitive damages in the following amount(s):

1. \$3,500,000 jointly against Defendants Canterbury, S. Rose, Dr. Edwards, Owens, Scarantino, Berkebile, Thompson.

D. Grant such relief as it may appear that the plaintiff is entitled.

Date: 3-01-10

Respectfully submitted:



Anthony T. Harrelson #12604-084
c/o Federal Correctional Institution Beckley
P.O. Box 350
Beaver, W.V. 25813

I hereby declare under penalty of perhury that all stated herein is true and correct to the best of my knowledge and understanding pursuant to 28 U.S.C. § 1746.

CERTIFICATE OF SERVICE

I hereby certify that I did, on this date, deposit a copy of the foregoing and annexed documents into the United States Postal Service, in an official depository thereof, with sufficient first class postage thereon, properly addressed as follows: Cover Letter

Complaint

Exhibits 1-31

Motion and Affidavit to appoint counsel

Affidavit (Pain)

Summons(8 each)

Affidavit (Assault(S) officer Cutwrigth)

Application to proceed without prepayment of fees and costs

This the 1 day of March, 2010.



Anthony T. Harrelson #12604-084
C/O Federal Correctional Institution Beckley
P.O.Box 350
Beaver, W.V 25813

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT COURT OF WEST VIRGINIA
P.O. Drawer 5009
Beckley, W.V. 25801

Date: 3-1-10

Attn: Ms. Deppner/ Deputy Clerk

Ref: a civil rights action taken by Anthony Harrelson

Dear madam,
I would like to know if the attached has merit for relief under 42 U.S.C. § 1983, in which denial of medical care, improper medical care, and inadequate medical care and conduct of prison officials is alleged in violation of the Eighth Amendment of the United States Constitution, and a violation of the Due Process Clause of the Fourteenth Amendment to the constitution. Also in the complaint injury was caused, causing both physical and emotional pain, I still have pain to this day.

I wanted to send this to you before I spent what limited funds I have on copies and fees, to see if the court will take this case.

I thank you very much for your time and help.

Respectfully submitted,



Anthony Harrelson # 12604-084
C/O Federal Correctional Institution
Beckley
P.O. Box 350
Beaver, W.V. 25813

P.S. I have included the application to proceed without prepayment of fees but I did not have the bottom part filled out, because I did not want my counselor to know what is going on until this is in the hands of the court. I will do everything in power to cooperate with the court in this matter. Thank you once more for your help and time (see affidavit of assault).



**"SPECIAL MAIL OPEN"
ONLY IN PRESENCE OF IMMEDIATE**

 **QUALITY PARK**
9-1/2 x 12-1/2

Anthony T. Harrelson #12604-084
c/o Federal Correctional Institution Beckley
P.O. Box 350
Beaver, W.V. 25813

"SPECIAL MAIL OPEN ONLY IN PRESENCE OF INMATE"

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
P.O. BOX 509
Beckley, W.V. 25801
ATTN: CLERK OF THE COURT/DEPUTY CLERK
"SPECIAL MAIL OPEN ONLY IN THE PRESENCE OF INMATE"

DO NOT OPEN ONLY IN PRESENCE OF INMATE

